

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
1998 Biennial Regulatory Review --)
Review of Depreciation Requirements)
For Incumbent Local Exchange Carriers)

CC Docket No. 98-137

FIVED

ORDER ON RECONSIDERATION

Adopted: February 21, 2001

Released: February 26, 2001

By the Commission: Commissioner Furchtgott-Roth dissenting and issuing a statement.

1. In this order, we deny a petition for reconsideration filed on May 10, 2000, by US West, Inc. (now Qwest)¹ of our December 30, 1999 Order (*Depreciation Order*).² In the *Depreciation Order*, which was part of our 1998 Biennial Regulatory Review proceeding, we undertook an extensive review of our depreciation requirements for price cap incumbent local exchange carriers (ILECs). Although we denied a petition filed by the United States Telecom Association (USTA) to forbear from imposing depreciation requirements on price cap ILECs,³ we significantly streamlined our depreciation requirements,⁴ and set out specific conditions under which ILECs could seek waiver of these requirements.⁵

2. In a subsequent order, released on November 7, 2000, we reviewed an alternative proposal for relieving carriers of our depreciation requirements.⁶ We concluded that the

¹ See Petition for Reconsideration of US West Communications, Inc., filed May 10, 2000. WorldCom, Inc. filed an opposition to the petition for reconsideration.

² 1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, *Report and Order in CC Docket No. 98-137 and Memorandum Opinion and Order in ASD 98-91*, FCC 99-397, 15 FCC Rcd 242 (1999).

³ *Id.* at 259 – 272.

⁴ *Id.* at 246 – 251.

⁵ *Id.* at 252 – 258. We found, *inter alia*, that a waiver of our depreciation requirements would be appropriate where an ILEC adjusts the net book costs on its regulatory books to the level currently reflected in its financial books by a below-the-line write-off and forego the opportunity to recover the amount of the write-off. *Id.* at 252-254. We stated that we would consider alternative proposals, but that any alternative proposal must provide the same protections to guard against any adverse impacts on consumers and competition as provided by the conditions we enumerated for obtaining a waiver. *Id.* at 253.

⁶ We reviewed an alternative proposal submitted by four ILECs that, *inter alia*, proposed to account for the financial-to-regulatory book differential above-the-line. See 1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket No. 98-137, *et seq.*, *Second Report and Order in CC Docket No. 99-137 and Order in CC Docket No. 99-117 and AAD File No. 98-26, FCC 00-396*, released November 7, 2000 (*November 2000 Order*).

alternative proposal to permit an above-the-line accounting treatment of the financial-to-regulatory book differential in lieu of a below-the-line accounting treatment lacked the inherent protections provided for in the waiver process adopted in the *Depreciation Order*.⁷ Thus, we declined to relieve carriers of our depreciation requirements in circumstances where they elected above-the-line treatment.

3. In its petition for reconsideration, Qwest requests (1) that we reconsider our denial of USTA's petition for forbearance of our depreciation requirements; (2) that if USTA's petition is not granted, we reconsider our methodology for establishing service life ranges for telecommunications plant equipment; and (3) that for purposes of seeking a waiver of the depreciation requirements, we permit an above-the-line accounting treatment of the differential between regulatory and financial book reserve levels.

4. After review of the arguments presented on reconsideration, we conclude that Qwest has not provided any new information or arguments that require us to alter our prior rulings. The precise issues and arguments that Qwest raises on reconsideration were thoroughly considered and examined in the previous proceeding. Our analysis and reasons for our rulings are fully stated in the *Depreciation Order*, and the *November 2000 Order* further underscores the appropriateness of the decision to deny reconsideration.

5. Accordingly, IT IS ORDERED that, pursuant to sections 4, 201-205, 218-220, 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 201-205, 218-220, 303(r), and 405 of the Communications Act of 1934, as amended, and Sections 1.106 and 1.429 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.429, that the petition for reconsideration filed May 10, 2000, by US West, Inc. (now Qwest) is DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary

⁷ *Id.* at para. 7.

Dissenting Statement of Commissioner Harold Furchtgott-Roth

Re: 1998 Biennial Regulatory Review: Review of Depreciation Requirements for Incumbent Local Exchange Carriers, Order on Reconsideration (CC Docket No. 98-137).

I dissent from this denial of reconsideration. As I have stated earlier, I believe that the requirements of section 10 have been satisfied, and I would therefore have granted Qwest's petition for regulatory forbearance. *See Statement of Commissioner Harold Furchtgott-Roth, Concurring in Part and Dissenting in Part, 1998 Biennial Regulatory Review: Review of Depreciation Requirements for Incumbent Local Exchange Carriers* (Dec. 30, 1999).